In the High Court of Judicature at Madras

Dated: 13.03.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Appeal No.1732 of 2004

Tamil Nadu Industrial Development
Corporation Ltd., rep. by its
Chairman, 19, Marshall Road,
Egmore, Chennai-8. .. Appellant

Vs

1.Uppalla Thozhilalar Sangam,
rep. by its General Secretary
M.Ramadoss, Athipattu,
Vallur Post, Ponneri Taluk,
Tiruvallur District. ..1st Respondent/Petitioner

2.The Deputy Salt Commissioner,
Office of the Deputy Salt Commissioner,
Government of India Shastri Bhavan,
706, Shastri Bhavan, Nungambakkam,
Chennai-34. ..2nd Respondent/1st Respondent

3.The Ennore Port Trust,
rep. by its Chairman,
Madras Port Trust,
Rajaji Salai, Chennai-1. ..3rd Respondent/3rd Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.02.2004 made in W.P.No.8006 of 2000 issue a writ of Certiorarified Mandamus calling for the records and connected papers from the files of the II Respondent pertaining to its Memo No.D/602/03B P.Park/98 dated 30.11.98 annexing the minutes of 19.11.98 between the Lessees and the 1st Respondent and the impugned order of payment of compensation to the Lessees alone atRs.18,000/- per acre or so as decided upon, in so far as no quantum had been fixed for the petitioner worker as per commitment made therein and to direct the 2nd respondent to include the names of the petitioner workers, as well for payment of the petitioner workers, as well as for payment of compensation aportioning the quantum and for the rehabilitation and pass such other orders.

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For Appellant : Mr.R.Viduthalai, SC for
M/s King and Partrige
For Respondents 1&2 : Mr.V.Raghavachari
For 3rd respondent : Mr.S.Ramachandran

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

The Tamil Nadu Industrial Development Corporation Limited, through its Chairman, aggrieved by the order of the learned single Judge dated 26.02.2004 made in W.P.No.8006 of 2000, has filed the above writ appeal.

2. Heard the learned Advocate General for the appellant as well as the respondents.

3. In view of the order to be passed hereunder, we are of the view that it is unnecessary for this Court to refer to all the factual details as stated by both parties as well as the reasoning of the learned single Judge.

4. The first respondent herein viz., Uppalla Thozhilalar Sangam, filed W.P. No.8006 of 2000 challenging the memo dated 30.11.1998 annexing the minutes of the second respondent/appellant praying to quash the same to the extent of payment of compensation to the lessees alone at Rs.18,000/- per acre. In the same writ petition, they also prayed to direct the second respondent therein viz., Tamil Nadu Industrial Development Corporation Limited (TIDCO), the appellant herein, to include the names of the writ petitioner-workers as well for payment of compensation, apportioning the quantum and for their rehabilitation. After considering the claim of the writ petitioner and the stand taken by the respondents therein, the learned single Judge has ultimately issued the following directions :

"17. In the result, I am inclined to pass the following order:

(i) The petitioner/Sangam is directed to file a proper representation with the second respondent giving full particulars of each of their members, who are alleged to have been working as salt labourers with their lessees. The burden to establish the same is on the workers.

(ii) The second respondent is directed to deal with the said representation, consider the materials to be placed before them in the context of each and every workers and to ascertain correctness or otherwise of the claim of each of them. Each individual worker has to

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produce proper materials to prove his employment with the lessee, failing which their claims cannot be entertained. They should have been working at the time when the land was actually taken over.

(iii) After identifying genuineness of the claims of the individual workers, TIDCO is directed to take steps to rehabilitate the workers by giving appointment to them in a suitable post by interacting with the beneficiaries/industrial establishments have been assigned with the land. Such an exercise shall be competed within a period of six months from the date of receipt of the representation from the Sangam or the individual workers."

Aggrieved by direction of the learned single Judge in para No.17(iii) of the order, the TIDCO has filed the present appeal.

5. The learned Advocate General, by drawing our attention to the Minutes of the Meeting convened on 19.11.1998 by the Executive Director, TIDCO, submitted that the direction of the learned single Judge in para 17 (iii) is not warranted. It is also contended that the developmental activities are only in the preliminary stage of implementing the Petrochem Park and therefore, it would not be possible for TIDCO to make any commitment regarding employment since the lands are allotted to prospective companies. It is also contended on behalf of the appellant that TIDCO cannot bear responsibility for any action taken by the lessees on their workers and there cannot be any claim against TIDCO, who are not even party to the writ petition. As pointed out by the learned Advocate General, in the Minutes of the Meeting convened on 19.11.1998, the TIDCO had taken a policy decision with regard to employment of the displaced labour. Para 5(iii) of the Minutes of the meeting is relevant, which is as follows:

"(iii) Any commitment for employment of the displaced labour from the salt works would not be feasible by TIDCO. Various industries would be directly set up in Petrochem park and these industries would be encouraged to give preference to local population/displaced salt/pain workers in employment."

6. As rightly pointed out, taking note of the grievance of the labourers, who were in the salt pan, TIDCO has taken a decision that the industries which are to be set up in the Petrochem Park would be encouraged to give preference to local population/displaced salt/pain workers in employment.

7. Though the learned Judge issued a positive direction to TIDCO to take all steps for rehabilitation of the workers by giving

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appointment to them in suitable posts, in the same paragraph, the learned Judge has further directed them to interact with the beneficiaries/industrial establishments, which have been assigned with the land and persuade them to provide employment to those persons. Inasmuch as TIDCO had also taken a decision to make efforts along with the beneficiaries/industrial establishments in identifying employment, we are of the view that the direction given by the learned single Judge in para 17(iii) cannot be construed that TIDCO has to provide employment to all the displaced persons. In other words, we make it clear that as observed by the learned single Judge, while assigning the lands with various beneficiaries/industrial establishments, TIDCO is to take all efforts in persuading those beneficiaries/industrial establishments for providing employment to those displaced persons, if they are otherwise suitable.

8. Though the learned single Judge directed TIDCO to complete the said exercise within a period of six months from the date of receipt of the representation from the Association or the individual workers, in view of the information furnished by the Advocate General that the beneficiaries/industrial establishments are yet to be allotted/assigned lands, the said direction cannot be implemented. As observed earlier, as and when the lands have been assigned/allotted to the beneficiaries/industrial establishments, TIDCO is to take all efforts for providing employment to displaced persons, if they are otherwise suitable. To this extent, the direction of the learned single Judge in para 17 of his order dated 26.02.2004 is clarified.

9. The writ appeal is disposed of on the above terms. No costs. W.A.M.P.No.3237 of 2004 is closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Deputy Salt Commissioner,
Office of the Deputy Salt Commissioner,
Government of India Shastri Bhavan,
706, Shastri Bhavan, Nungambakkam,
Chennai-34.

2.The Chairman,
Ennore Port Trust,
Madras Port Trust,
Rajaji Salai, Chennai-1.

+1cc to Mr.King & Partridge, Advocate Sr 15180
+1cc to Mr.V.Raghavachar, Advocate Sr 15467
+1cc to Mr.S.Raghunathan, Advocate Sr 15437

MJ (CO)
km/22.3.

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